UNITED
NATIONS

A S

General Assembly
Security Council

Distr.
GENERAL

A/52/116
S/1997/317
16 April 1997

ORIGINAL: ENGLISH

GENERAL ASSEMBLY
Fifty-second session
Items 107, 109, 110, 112 and 114
of the preliminary list*
ADVANCEMENT OF WOMEN
REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS
PROMOTION AND PROTECTION OF THE RIGHTS OF CHILDREN
ELIMINATION OF RACISM AND RACIAL DISCRIMINATION
HUMAN RIGHTS QUESTIONS

SECURITY COUNCIL
Fifty-second year

Letter dated 14 April 1997 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a copy of the report on the policy of ethnic cleansing/genocide conducted in the territory of Abkhazia, Georgia, and the necessity of bringing to justice the persons who committed these crimes in accordance with international principles of due process, and the conclusions of the State Commission of Georgia for the Investigation of the Policy of Ethnic Cleansing/Genocide carried out against the Georgian Population in Abkhazia, Georgia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under items 107, 109, 110, 112 and 114 of the preliminary list, and of the Security Council.

(Signed) Peter CHKHEIDZE
Ambassador
Permanent Representative

* A/52/50.

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ANNEX

[Original: English and Russian]

Report on the policy of ethnic cleansing/genocide conducted in the territory of Abkhazia, Georgia, and the necessity of bringing to justice the persons who committed these crimes in accordance with international principles of due process

Conclusions of the State Commission of Georgia for the Investigation of the Policy of Ethnic Cleansing/Genocide carried out against the Georgian Population in Abkhazia, Georgia, and submission of materials to an international tribunal

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I. GENERAL BACKGROUND AND ASSESSMENT OF THE ACTIONS OF SEPARATISTS CONTAINED IN THE DOCUMENTS OF THE SECURITY COUNCIL OF THE UNITED NATIONS, OF THE SUMMITS OF THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE (OSCE) AND ITS OTHER ORGANS, AND OF THE COUNCIL OF THE HEADS OF STATES OF THE COMMONWEALTH OF INDEPENDENT STATES (CIS)

A. General situation

1. Nearly four years have passed since armed insurrection broke out in a region of Georgia, the Abkhaz Autonomous Republic - a conflict instigated by the aggressive separatists from the leadership of the Autonomous Republic with a view to wresting away from Georgia land that had been part of it since time immemorial.

2. Aided by thousands of foreign mercenaries and supported by a certain number of Russian troops deployed in Abkhazia since the existence of the Union of Soviet Socialist Republics, the Abkhaz separatists have managed to seize the whole of Abkhazia, successively forcing the Government of Georgia troops to withdraw from the region. Their advance has been accompanied by barbaric violence brought by the separatists upon the Georgian population of Abkhazia, which led to effectively reducing the latter, who had constituted 46 per cent of the population of the region prior to the conflict, to zero.

3. The seizure of territory has been accompanied by systematic extermination of ethnic Georgians, principally civilians - political figures, teachers, doctors, writers and cultural workers. Georgian architectural and archaeological monuments testifying to the fact that Georgians have lived in the Abkhaz region since ancient times have been destroyed.

4. Under threat of physical reprisals, survivors have been driven from their birthplaces and out of Abkhazia, which has been declared an "Independent State". As a result, over 1,000 people have died, most of them civilians, and some 250,000 Georgians have been forced to flee in order to escape blood-chilling humiliations, torture and shootings.

5. Besides Georgians, over 100,000 non-Georgians have fled Abkhazia - Russians, Armenians, Greeks and Estonians - and thousands of Abkhaz have left their country, not wishing to be associated with a fascist regime. Thus four fifths of the population of the region by 1996 found itself outside of it.

6. Concurrently with continued obstruction of and refusal to the refugees and displaced persons of the right to return voluntarily to their homes in accordance with the Quadripartite Agreement signed on 4 April 1994 with the participation of the Office of the United Nations High Commissioner for Refugees (UNHCR) (S/1994/397, annex II), the separatists have been encouraging the process of settlement of mercenaries and others in the region. This must alter the demographic composition of the population. Those who have dared to return at their own risk to the Gali region are being subjected to intimidation, terror and finally expulsion.

7. All these events, as reflected in the statements of the State Commission of Georgia for the Investigation of the Policy of Ethnic Cleansing/Genocide against the Georgian Population in Abkhazia, Georgia, has been consistently brought to the attention of the international community, first and foremost of the United Nations Security Council and the Commission on Human Rights (see E/CN.4/1994/123, E/CN.4/1995/139, E/CN.4/1996/146, S/1994/225 and S/1995/200). The same information had been submitted to the Organization for Security and Cooperation in Europe (OSCE) and the Council of Heads of States of the Commonwealth of Independent States (CIS).

B. Assessment of the actions of the separatists

8. The reaction of the international community was unanimous:

(a) OSCE summits and reports of the OSCE mission to Georgia:

"They [the participating States of OSCE] expressed their deep concern over 'ethnic cleansing', the massive expulsion of people, predominantly Georgian, from their living areas and the deaths of large numbers of innocent civilians." (Meeting of the Heads of States and Governments of the OSCE participating States, 4 and 5 December 1994, "Towards a genuine partnership in a new era" (A/49/800-S/1994/1435, annex, Budapest decisions, regional issues, Georgia, para. 2));

"We [OSCE participating States] condemn the 'ethnic cleansing' resulting in mass destruction and forcible expulsion of the predominantly Georgian population in Abkhazia. Destructive acts of separatists, including obstruction of the return of refugees and displaced persons, ... undermine the positive efforts undertaken to promote political settlement of these conflicts." (Lisbon Summit Declaration, 3 December 1996, (A/51/716, appendix I, para. 20));

"The Abkhaz authorities continue to apply a policy of violent ethnic cleansing with the aim of preventing any significant repatriation in the Gali region or any other part of Abkhazia. The tactics employed vary from simple verbal intimidation and arrests for short periods to murder and some most horrific atrocities, from all accounts, have been committed on orders from Sukhumi." (Report of an OSCE mission to survey the human rights situation in the Gali region of Georgia, from 19 to 21 April 1995, referred to in a statement by the State Commission dated 26 March 1996 (see E/CN.4/1996/146, annex, para. 16));

(b) The United Nations Security Council shared all these conclusions and in its relevant resolutions "recalls the conclusions of the Budapest summit of the Conference on Security and Cooperation in Europe regarding the situation in Abkhazia, Georgia, and affirms the unacceptability of the demographic changes resulting from the conflict" (resolutions 1036 (1996) of 12 January 1996 and 1065 (1996) of 12 July 1996);

(c) The Council of Heads of the CIS States supported the conclusions of the Budapest summit, citing the above-mentioned provision in the Minsk statement of the Council of Heads of CIS of 26 May 1995;

(d) On 14 November 1996, the European Parliament adopted a resolution, which stated, inter alia, that the Parliament, expressing its deep concern over the increased number of refugees from Abkhazia currently living in the territory of Georgia and the continued process of ethnic cleansing in the region of Abkhazia, stressed that the final peaceful resolution of the conflict in Abkhazia should be based on a comprehensive political settlement with due respect for the sovereignty and territorial integrity of Georgia within internationally recognized borders; and stressed that the elections in Abkhazia should be held only in the context of a comprehensive political settlement by means of negotiations once the political status of Abkhazia had been determined and the full participation of all refugees and displaced persons in the elections guaranteed;

(e) In paragraphs 9 and 11 of its resolution 1096 (1997) of 30 January 1997, the Security Council "recalls the conclusions of the Lisbon summit of the Organization for Security and Cooperation in Europe regarding the situation in Abkhazia, Georgia, and reaffirms the unacceptability of the demographic changes resulting from the conflict" and "reiterates its demand that the Abkhaz side accelerate significantly the process of voluntary return of refugees and displaced persons without delay or preconditions".

9. The logical outcome of this should be to take measures for a more precise investigation of the facts and, in case of confirmation, to establish an international tribunal. However, the situation has not provoked an effective and adequate response on the part of the international community.

10. It is worth noting that, at the first stage, in autumn 1993, following the ceasefire and assumption of control over the whole territory of Abkhazia by the Abkhaz separatists, the Secretary-General of the United Nations, at the request of the Government of Georgia, sent a fact-finding mission with a view to examining the situation as regards the violation of human rights in Abkhazia, including reports of "ethnic cleansing".

11. The mission, composed of three representatives of the Centre for Human Rights of the Secretariat, found itself obliged to pursue the complicated task of establishing whether the Georgian claims were justified or not in only one week.

12. In November the mission submitted its report to the Secretary-General, the result of its short-term visit to Georgia (five days in Abkhazia and two days in Tbilisi). Clearly, it was extremely difficult for the mission to establish to what extent the claims matched reality, since to gather reliable information in Abkhazia, turned into a true "no man's land" freed from Georgians, would seem a nearly impossible task. Regretfully, the mission was not able to manage to gain access to evidence from Georgian refugees and internally displaced persons who had fled to western Georgia. Nevertheless, the report submitted to the Secretary-General drew a basically accurate picture of developments,

notwithstanding some inaccuracy in historical background (S/26795 of 17 November 1993).

13. The mission attributed violations of human rights to both parties. However, it noted the massive and cruel character of the acts committed by the Abkhaz forces and their mercenaries against civilians remaining in the territory, where their forces advanced and "peace" was restored (pp. 18-22, 27-29, 33-37 and 38).

14. In fact, acquiescing that within the given time limit the mission could not claim to have been able to undertake a comprehensive study and investigation of the situation, it limited itself to stating (para. 52):

> "On the basis of the information collected, the mission was not in a position to ascertain whether it had been an actively pursued policy of the authorities of either side, at any time, to clear the areas under their control of either the Abkhazian or the Georgian population. Only further careful investigation and evaluation can establish the relevant facts in a conclusive manner."

However, this was never done, with negative consequences for the whole process of a comprehensive settlement of the conflict in Abkhazia, Georgia.

15. Insufficient activity and consistency on the part of the international community in its reaction to the events in Abkhazia, Georgia, and successful sabotage by the separatists of the recommendations of the Security Council and OSCE to work out a constructive approach to the political status of Abkhazia "within the State of Georgia and its internationally recognized borders" would seem to have given an incentive to the authorities in Sukhumi to make an attempt to legalize the results of "ethnic cleansing". Ignoring the opinion of the Security Council, the European Parliament and OSCE, the separatists held a so-called parliamentary "election" in the depopulated territory of Abkhazia on 23 November 1996 (with some 150,000 inhabitants left out of 540,000). This political spectacle was branded by the international community as illegal.

16. The OSCE summit in Lisbon described the actions of the separatists as "destructive".

17. In its resolution 1096 (1997), the Security Council reaffirmed "its commitments to the sovereignty and territorial integrity of Georgia within its internationally recognized borders, and to the necessity of defining the status of Abkhazia in strict accordance with these principles and underline[d] the unacceptability of any action by the Abkhaz leadership in contravention of these principles, in particular the holding on 23 November 1996 and 7 December 1996 of illegitimate and self-styled parliamentary elections in Abkhazia, Georgia". The Ministry of Foreign Affairs of the Russian Federation also condemned "the position held by the authorities of Sukhumi", since the "elections" had been held by the "Abkhazian side in contravention of universally recognized norms of human rights and fundamental civil liberties and fully ignoring international opinion". People who had been evicted from their places of permanent residence in the course of military action could not participate in these "elections". For this reason the actions of 23 November must not be accepted either as

legitimate in accordance with the law, nor as politically well-founded (excerpts from the statement made by the Ministry of Foreign Affairs of the Russian Federation on 23 November 1996).

18. Thus, the syndrome of impunity that has infected the separatists prompts them to commit new brutalities, to refuse access by refugees and internally displaced persons to their places of permanent residence and to commit actions with the sole goal of the legalization of their fascist political regime.

19. Meanwhile, as is clear from the above, the international community of States has unequivocally admitted that the Abkhaz separatists are still pursuing "ethnic cleansing" by using the most barbaric methods in the territory under their control, leading to the massive destruction and forcible expulsion of the Georgian population, who had made up half the total population of Abkhazia before the conflict.

20. Before proceeding to the concrete facts that will serve as evidence of flagrant violation by the separatists of the norms of international humanitarian law, it is necessary to consider the issue as to whether the "ethnic cleansing" referred to in the above-mentioned documents and as it is being pursued in Abkhazia can be considered a crime against humanity and a form of genocide, since upon that depends the appropriateness of raising the question of bringing the accused to trial before an international tribunal.

21. In considering this issue, the Commission has actively used the final report of the special Commission of Experts (S/1994/674, annex, of 27 May 1994), created by the Secretary-General in accordance with resolution 780 (1992) of 6 October 1992, to examine and analyse, inter alia, information submitted pursuant to Security Council resolutions 771 (1992) of 13 August 1992 and 780 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia, in particular the practice of "ethnic cleansing".

II. "ETHNIC CLEANSING" IN THE CONTEXT OF CRIMES AGAINST HUMANITY

A. The concept of the crimes against humanity

22. The definition and concept of such crimes were first recognized in article 6 of the charter of the International Military Tribunal (8 August 1945) and separated from the concept of crimes against peace and violations of the laws and customs of war.

23. The main characteristics of crimes against humanity were stated in article 6 to be criminal actions, "namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population ... or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated".

24. Thus it was acknowledged that the "leaders, coordinators, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes [were] responsible for all acts performed by any persons in execution of such plan", but their official position should not be considered as freeing them from responsibility (arts. 6 and 7).

25. These principles were reaffirmed by the General Assembly in its resolution 95 (1) of 11 December 1945 and have been reflected in the consciousness of mankind and recognized as universal common standards of international law.

26. The 1948 Convention on the Prevention and Punishment of the Crime of Genocide defines acts constituting such crimes as those committed primarily against national, ethnic, racial and religious groups of the civilian population, and genocide was considered to be one of the most atrocious and gravest forms of crime against humanity.

27. Fifty years later, when the outbreak of inter-ethnic armed conflicts, in particular those taking place within the territory of one State, and the increased threat of aggressive separatism converged into forms of crimes against humanity unthinkable even 50 years ago, the following international tribunals were established: the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (Security Council resolution 827 (1993) and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (Security Council resolution 995 (1995)).

28. The statutes of the Tribunals generalized past practice and developed the concept and content of crimes against humanity, including the responsibility of persons for violations of the Geneva Conventions of 1949 and Protocols of 1977, and the laws or customs of war into their jurisdiction.

29. The crime of genocide is the subject of article 4 of the statute of the International Tribunal for the Former Yugoslavia (S/25704, annex) and crimes of humanity are listed in article 5.

30. As a matter of fact, the Tribunal based its jurisdiction on already existing conventional and customary norms without codifying them, although the Tribunal's attempt to extend the list of acts coming under the ambit of the notion of crimes against humanity is worthy of note.

31. Article 5 of the statute of the Tribunal, referring to the crimes committed on the territory of the former Yugoslavia, states:

> "The International Tribunal shall have the power to prosecute persons responsible for ... crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population",

including undoubtedly national, political, ethnic, racial or religious groups. Regarding crimes against humanity, article 3 of the statute of the International Tribunal for Rwanda stresses the prosecution of persons responsible for crimes "when committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds", that is, it does not associate those crimes primarily with armed conflicts. Acts to be discussed hereby are quite properly interpreted by the Commission of Experts (S/1994/674, annex, para. 73) as:

> "Principles of international law applicable erga omnes. As ascertained by the International Military Tribunal at Nuremberg, there are 'elementary dictates of humanity' to be recognized under all circumstances. The General Assembly in its resolution 95 (I) of 11 December 1946 affirmed the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgement of the Tribunal."

B. The nature of armed conflict

32. Further, the experts have held that crimes against humanity are not confined to situations of international armed conflict and may be applied in relation to all armed conflicts, including internal - civil wars and insurrection - and whatever casus mixtus may arise in between internal and international armed conflict. Most importantly, crimes against humanity are also no longer dependent on their linkage to crimes against peace or violations of the laws and customs of war (ibid., para. 75).

C. Protected persons

33. Crimes against humanity target the civilian population, meaning people who are not combatants. However, in the view of the Commission of Experts, there are situations where inhabitants of certain buildings, quarters or villages are searched and executed. In these circumstances, the attempt of a head of family to defend himself and his relatives does not lead him to forfeit his status as a civilian (ibid., para. 77).

D. Widespread and systematic nature of the acts

34. "Isolated acts constituting offences, such as extra-judicial executions or other common crimes punishable under municipal law, do not qualify as crimes against humanity by themselves. The acts must be part of a policy of persecution or discrimination. In addition, the acts must be carried out in a systematic way or by means of a mass action. Thus, the number of victims and perpetrators are characteristically high ... It is the systematic process of victimization against the protected group which is essential ... It is the overall context of large-scale victimization carried out as part of a common plan or design which goes to the element of systematicity." (Ibid., para. 84)

35. "It should not be accepted at face value that the perpetrators are merely uncontrolled elements, especially not if these elements target almost exclusively groups also otherwise discriminated against and persecuted. Unwillingness to manage, prosecute and punish uncontrolled elements may be another indication that these elements are, in reality, but a useful tool for the implementation of a policy of crime against humanity." (Ibid., para. 85)

E. Classification of the acts

36. Article 5 of the statute of the International Tribunal for the Former Yugoslavia and article 3 of the statute of the International Tribunal for Rwanda list the following acts as constituting crimes against humanity:

(a) Murder;

(b) Extermination;

(c) Enslavement;

(d) Deportation;

(e) Imprisonment;

(f) Torture;

(g) Rape;

(h) Persecutions on political, racial and religious grounds;

(i) Other inhumane acts.

37. Article 18 of the draft Code of Crimes against Peace and Security of Peoples stipulates:[a]

"A crime against humanity means any of the following acts, when committed in a systematic manner or on a large scale and instigated or directed by a Government or by any organization or group:

"(a) murder;

"(b) extermination;

"(c) torture;

"(d) enslavement;

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[a] See Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 (A/51/10 and Corr.1), chap. II, sect. D.1.

"(e) persecution on political, racial, religious or ethnic grounds;

"(f) institutionalized discrimination on racial, ethnic or religious grounds involving the violation of fundamental human rights and freedoms and resulting in seriously disadvantaging a part of the population;

"(g) arbitrary deportation or forcible transfer of population;

"(h) arbitrary imprisonment;

"(i) forced disappearance of persons;

"(j) rape, enforced prostitution and other forms of sexual abuse;

"(k) other inhumane acts which severely damage physical or mental integrity, health or human dignity, such as mutilation and severe bodily harm."

38. Thus, there has been established a clear concept and definition of crimes against humanity, the principles of which are erga omnes in character and were shaped as universally recognized principles of international customary law, having an absolute legal effect, jus cogens.

39. Should it be established that such crimes have been committed, an international tribunal should be set up for the persecution of persons guilty of them, if the State is either by itself responsible for their perpetration or not in a position to exercise jurisdiction over the territory where the crimes are committed.

40. This right of the State is defined in article VI of the Genocide Convention:

"Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction."

Article VIII empowers any Contracting Party to "call upon [emphasis added] the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III". Undoubtedly, this right should be vested with the State that is fighting the crime of genocide in its territory. Significantly, the United Nations Security Council decided to establish the International Criminal Tribunal at the request of the Government of Rwanda (see Security Council resolution 955 (1994), para. 1).

F. "Ethnic cleansing" as a crime against humanity

41. Although widely attributable to ethnic and other intra-state conflicts, "ethnic cleansing" is missing from the list of crimes against humanity. Nevertheless, quite established opinio juris and judicial practice offer sound grounds for regarding "ethnic cleansing" as a form of crime against humanity.

42. The United Nations Commission of Experts, having examined the nature of the crimes committed in the territory of the former Yugoslavia, held the view that "ethnic cleansing" is (S/1994/674, annex, para. 130):

> "A purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographical areas. To a large extent, it is carried out in the name of misguided nationalism, historic grievances and a powerful driving sense of revenge. This purpose appears to be the occupation of territory to the exclusion of the purged group of groups."

In an earlier report (S/25274, para. 56), the Commission stated that:

> "'Ethnic cleansing' has been carried out by means of murder, arbitrary arrest and detention, extra-judicial executions, rape and sexual assault, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property."

43. The International Tribunal for the Former Yugoslavia has several times stated that:

> "The acts target the members of an identified civilian population, conceived as one or more groups, national or political; the commission of the acts follows the same pattern; the acts are planned and organized at a state level. They appear to have a common objective: permitting the establishment of 'ethnically pure' territories and thus creating a new State. The acts constitute the means to implement the 'policy of ethnic cleansing' ... The Trial Chamber therefore considers that the above-mentioned acts can more appropriately be characterized as a crime against humanity." (International Tribunal for the Former Yugoslavia. In the Trial Chamber, Prosecutor v. Radovan Karadžić and Ratko Mladić, review of the indictments pursuant to rule 61 of the rules of procedure and evidence, paras. 90 and 91, 11 July 1996.)

44. As stated in the report of the Secretary-General pursuant to paragraph 2 of Security Council resolution 808 (1993) concerning establishment of the International Tribunal for the Former Yugoslavia (S/25704, para. 48):

> "Crimes against humanity refer to inhumane acts of a very serious nature, such as wilful killing, torture or rape, committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds. In the conflict in the

territory of the former Yugoslavia, such inhumane acts have taken the form of so-called 'ethnic cleansing' and widespread and systematic rape and other forms of sexual assault, including enforced prostitution."

45. Section I of resolution 1996/71 of 23 April 1996 of the Commission on Human Rights states that the Commission:

"1. Condemns in the strongest terms all violations of human rights and international humanitarian law during the conflict, in particular in areas which were under the control of the self-proclaimed Bosnian and Croatian Serb authorities, in particular massive and systematic violations, including, inter alia, systematic ethnic cleansing, killings, disappearances, torture, rape, detentions, beatings, arbitrary searches, burning and looting of houses, shelling of residential areas, illegal and forcible evictions and other acts of violence aimed at forcing individuals from their homes, and reaffirms that all person who plan, commit or authorize such acts will be held personally responsible and accountable;

"2. Expresses its outrage that the abominable, deliberate and systematic practice of rape has been used as a weapon of war in the Republic of Bosnia and Herzegovina, [and] recognizes that rape in this context constitutes a war crime ...;

"3. Expresses its deep concern over ... actions that undermine the principle of right to return, including enforcement of legislation which restricts rights to claim 'socially owned' property throughout the State of Bosnia and Herzegovina, unjustified evictions of persons from their homes and resettlement of displaced persons in homes which, under the agreement reached in Geneva on 18 March 1996, should remain vacant for six months."

46. This is not an exhaustive list of acts that the Commission condemned and brought into the ambit of international crimes the commission of which invokes international criminal responsibility.

47. All the above offers sound grounds to assert that "ethnic cleansing" is a crime against humanity and as such is subject to the competence of an international tribunal.

III. GENOCIDE, THE GRAVEST CRIME AGAINST HUMANITY

A. Definition of genocide

48. At present, there seems no room to question that genocide is one of the gravest crimes against humanity. Article 6 of the charter of the International Military Tribunal of 8 August 1945 contains clear stipulations concerning the acts that constitute crimes against humanity. Consequently, genocide was singled out as a crime against humanity, to be reflected later in the relevant convention.

49. The statutes of the International Tribunal for the Former Yugoslavia (art. 4) and the International Criminal Tribunal for Rwanda (art. 2) and the

draft Code of Crimes Against Peace and Security of Peoples (art. 17) deal separately with this horrendous and atrocious crime against humanity, manifested in acts that are committed not with the mere purpose of mass and systematic persecution of any civilian population and with the intent of their physical extermination but, most importantly, that target any national, ethnical, racial or religious group.

50. The Contracting Parties to the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, referring to General Assembly resolution 96 (1) of 11 December 1946, which declares that "genocide is a crime under international law, contrary to the ... aims of the United Nations and condemned by the civilized world", confirmed that "genocide ... is a crime under international law which they undertake to prevent and to punish" (art. 1). In this respect, there is a need to draw close attention to the term "confirm": the Contracting States did not create a new precedent, but derived support from the already existing concept of the crime in order to translate the erga omnes customary norm into a conventional one.

51. The Commission of Experts stressed (S/1994/674, annex, para. 88) that the objectives of the Convention were:

> "To safeguard the very existence of certain human groups and to affirm and emphasize the most elementary principles of humanity and morality. In view of the rights involved, the legal obligations to refrain from genocide are recognized as erga omnes."

Importantly, article 1 of the Genocide Convention states that genocide is a crime under international law regardless of whether committed in time of peace or war. The Commission therefore concludes (ibid., para. 91):

> "Thus, irrespective of the context in which it occurs (for example, peace time, internal strife, international armed conflict or whatever the general overall situation) genocide is a punishable international crime."

B. Acts identified as the crime of genocide

52. Article 2 of the Genocide Convention states:

> "In the present Convention, genocide means any of the following acts ...:
>
> "(a) Killing members of the group;
>
> "(b) Causing serious bodily or mental harm to members of the group;
>
> "(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part ...".

The main objective of these acts should be the intent "to destroy, in whole or in part, a national ethnical, racial or religious group, as such".

53. Thus, for the crime defined as "genocide", the whole destruction of the group is not required and the term "in part" is interpreted by the Commission of Experts to signify (ibid., paras. 93 and 94):

> "Destruction of a group in whole or in part does not mean that the group in its entirety must be exterminated ... If a group has its leadership exterminated, and at the same time or in the wake of that, has a relatively large number of the members of the group killed or subjected to other heinous acts, for example deported on a large scale or forced to flee ... [evincing] the intent to destroy the fabric of a society through the extermination of its leadership, when accompanied by the acts of elimination of a segment of society, can also be deemed genocide."

Remarkably, "it is not a condition that the victim group be a minority, it might as well be a numerical majority" (ibid., para. 95).

C. Intent

54. It is the element of intent to destroy a designated group in whole or in part that makes crimes of mass murder and crimes against humanity qualify as genocide (ibid., para. 97). This is the intent against a number of individuals, that is, a crime against a collectivity, and not against one, two or more members of the group, the intent to destroy the group "as such". Consequently, there must exist a clear objective - to destroy and to remove an undesirable national, ethnical, racial, or religious group from the population of the State or region either by wholesale physical extermination as such or by the physical extermination of part of the group and forcible expulsion of the others from the defined district, region or State as a whole.

55. Fully acknowledging the above-mentioned conditions, the International Tribunal for the Former Yugoslavia stressed that:

> "The intent which is particular to the crime of genocide need not be clearly expressed ... The intent may be inferred from a certain number of facts such as the general political doctrine which gave rise to the acts possibly covered by the definition in article 4, or the repetition of destructive and discriminatory acts. The intent may also be inferred from the perpetration of acts which violate, or which the perpetrators themselves consider to violate, the very foundation of the group - acts which are not in themselves covered by the list in article 4 (2) but which are committed as part of the same pattern of conduct." (Review of the indictments ..., para. 94)

D. Ethnic cleansing as a form of genocide

56. Investigating the character of the crimes on the territory of the former Yugoslavia, the Trial Chamber of the International Tribunal concluded that:

> "Certain methods used for implementing the project of 'ethnic cleansing' appear to reveal an aggravated intent as, for example, the massive scale of

> the effect of the destruction. The number of the victims selected only because of their membership in a group would lead one to the conclusion that an intent to destroy the group, at least in part, was present. Furthermore, the specific nature of some of the means used to achieve the objective of 'ethnic cleansing' tends to underscore that the perpetration of the acts is designed to reach the very foundations of the group or what is considered as such."

The Trial Chamber therefore invited the Prosecutor to consider broadening the scope of the characterization of genocide to include other criminal acts than those committed in the detention camps ("Review ...", para. 95).

57. Judge Foad Riad of the Tribunal, having considered the indictment submitted by the Prosecutor, concluded that:

> "The policy of 'ethnic cleansing' referred to above presents, in its ultimate manifestation, genocidal characteristics. Furthermore, in this case, the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, specific to genocide, may clearly be inferred from the gravity of the 'ethnic cleansing' ... i.e. principally, the mass killings. Thus, the charge of genocide is indeed appropriate." (International Tribunal for the Former Yugoslavia, case N IT 95-18-1, before a Judge of the Trial Chamber, Prosecutor v. Radovan Karadžić and Ratko Mladić, review of the indictment, 16 November 1995)

58. Later, on 16 May 1996, the Trial Chamber, having considered the nature of the crimes presented by the Prosecutor, classified them pursuant to:

(a) Killing members of the group or groups;

(b) Causing serious bodily or mental harm to a member or members of the group or groups by means of inhumane treatment, torture, rape and deportation;

(c) Deliberate inflicting on the group of conditions of life calculated to bring about its physical destruction in whole or in part, which was put into effect in the detention camps and through the siege and shelling of cities and protected areas.

59. The Trial Chamber determined that, in specifying the nature of the acts included under the term "ethnic cleansing", it was necessary to ascertain whether the pattern of conduct of which it was seized, namely "ethnic cleansing", taken in its totality, revealed a genocidal intent.

60. Undoubtedly, these conclusions were shared by the United Nations General Assembly, which recognized "ethnic cleansing" as a form of genocide in its resolution 47/121 of 18 December 1992.

61. The United Nations Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities frequently recall resolution 47/121.

62. For example, in its resolution 1993/8, entitled "Punishment of the crime of genocide", the Subcommission welcomed resolution 47/121, in which the General Assembly stated that the policy of ethnic cleansing was a form of genocide, and urged States Members of the United Nations to make every effort to bring to justice, in accordance with internationally recognized principles of due process, all those individuals directly or indirectly involved in the territory of the former Yugoslavia or in any other part of the world.

63. In its resolution 1995/89, entitled "Situation of human rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)", the Commission on Human Rights strongly condemned the specific violations identified by the Special Rapporteur in his reports, most of which were committed in connection with the systematic policy of "ethnic cleansing" and genocidal acts in the areas of the former Yugoslavia under the control of the self-proclaimed Serb authorities, and which included mass killing, torture, disappearances, rape and other sexual abuses against women and children, the use of civilians as human shields on confrontation lines and as mine clearers, arbitrary executions, the destruction of houses, religious objects and cultural and historical heritage, forced and illegal evictions, detentions, arbitrary searches and other acts of violence; and strongly reaffirmed that in order to achieve a peaceful and lasting solution and to improve the human rights situation in Bosnia and Herzegovina, the right of return to their homes in safety and dignity of all refugees and displaced persons victims of the "ethnic cleansing" and the invalidity of forcible territorial gains and of forced transfers of property and other acts under duress must be recognized, and that the practice and consequences of "ethnic cleansing" should in no way be legitimized.

64. These formulations serve as a point of reference for all the following resolutions of the Subcommission and Commission, in particular as regards the acts included in the concept of "ethnic cleansing" as crimes against humanity, which sometimes border on and in certain cases correspond fully to "acts of genocide".

65. In its resolution 1993/7 of 23 February 1993, the Commission on Human Rights, recalled its resolution 1992/S-2/1, in which it called on all States to consider the extent to which the acts committed in Bosnia and Herzegovina and Croatia constituted genocide, and took note of General Assembly resolution 47/121, in which the Assembly stated that "the abhorrent practice of ethnic cleansing was a form of genocide".

66. The same approach is employed in the Commission's resolution 1995/89 of 8 March 1995.

67. Thus, "ethnic cleansing" is not only a crime against humanity under the jurisdiction of international tribunals, but constitutes a form of genocide, so that the relevant provisions of the Convention on the Prevention and Punishment of the Crime of Genocide should apply to it. Consequently, it could be stated that "ethnic cleansing", in its extreme, aggravated form, when it contains acts punishable as crimes against humanity as a whole and genocide, in particular, falls under those acts defined by international law as within the jurisdiction of the Tribunals having international competence, insofar as the State is not

able to punish the guilty, having temporally lost control over the region or where the region is under the supervision of the individuals implementing the "ethnic cleansing" or genocide, and appeals for the assistance to the international community of States.

IV. GENOCIDE OF THE GEORGIAN POPULATION OF ABKHAZIA, GEORGIA - A CRIME AGAINST HUMANITY MANIFESTED IN THE FORM OF ETHNIC CLEANSING*

A. Criminal intent to exterminate the Georgian population of Abkhazia as part of the official ideology of the separatists

68. "From 1990 to 1992, in the Abkhaz nationalist press, radio and television, in the lecture rooms of the University, in institutes and schools ... the image of Georgia as the enemy was created in the public consciousness. This enemy was any Georgian, including the next-door neighbour. He was blamed for all the troubles of the Abkhaz people ... He allegedly pillaged everything, appropriated everything for himself, drank the blood of Abkhazia." (S. Chervonnaia, Abkhazia - 1992. The Post-communist "Vendée", Moscow, 1993, p. 82.)

69. The ideas contained in scholarly analysis, public statements of writers and politicians, figures and slogans employed at public rallies organized by the Abkhaz separatists, messages to Soviet authorities and Communist Party organs during the period of existence of the Abkhaz Autonomous Republic all indicate the deliberate and premeditated nature of the barbaric acts carried out against the Georgian population of Abkhazia. It is important to note that the international community was already being misled during the Soviet era, when the Soviet press and broadcast media were often employed to disseminate anti-Georgian venom, a practice that intensified greatly during the period from 1989 to 1992.

70. The separatist ideologists have attempted to assert that Abkhazia has never been a part of Georgia, and that its independence is centuries old. Continuing their distortion of the facts, they keep maintaining that the Democratic Republic of Georgia (1918-1921) first occupied Abkhazia and that later Soviet Georgia, to which Abkhazia was joined in an agreement, re-annexed it again in 1931, transforming its relation with the Georgian SSR into one of autonomy within the larger republic.

71. Nevertheless, according to A. Gogua in his article in Druzhba Narodov (1989):

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* This compilation of information concerning criminal acts committed by the separatists is based on the evidence of 15,000 witnesses and innocent victims of those acts, as also on a large amount of photographic and video material gathered by the Prosecutor's Office of Georgia in the process of the investigation and contained in more than 100 volumes.

"Having first exterminated or bled white the intelligentsia, closed down Abkhaz schools, resettled more than 200,000 inhabitants from other parts of Georgia onto the best Abkhazian lands, which resulted in the assimilation of part of the native population, they plunged one of the most ancient people of the Caucasus and its culture into a state of shock, turning its autonomy into a mere facade."

The same thought is reiterated by G. Tarba and B. Guruli, and by B. Sagaria, except that their accounts differ in the numbers they quote, 100,000 and 60,000, respectively.

72. This is a rather convenient case of amnesia with regard to the fact that Abkhazia has for centuries been a part of the Georgian State, during the period of the unified Kingdom of Georgia (eleventh to fifteenth centuries) and also during the subsequent years of disintegration. This amnesia conceals the fact that the Abkhaz and Georgian people have lived side by side for centuries, the territory of Abkhazia being full of archaeological and architectural evidence containing Georgian inscriptions that date from ancient days attesting to this fact. For centuries Abkhazia's political, democratic and ecclesiastical language of choice has been Georgian. Even a letter from Abkhaz authorities to the Emperor of Russia asking for protection was written in Georgian.

73. In blaming Georgians for the forcible reduction of the Abkhaz population to a minority, Abkhaz separatists conceal the fact that by the end of the nineteenth century the Russian Empire had forced thousands and thousands of Abkhaz into exile, a process widely known as the Mahajir movement. This was in punishment for Abkhaz cooperation with the peoples of the northern Caucasus in the Caucasian War. This is enough to shatter any myth of an idyllic Abkhaz-Russian relationship.

74. It is an undeniable fact that for well over a century Georgians have constituted the majority in the region. In 93 years (from 1896 to 1989) their numbers increased only seven times, whereas Russian and Armenian numbers have increased 65.5 and 67.7 times, respectively.

75. Remarkably, in 1992, in the wake of the conflict, a reference book containing surnames and addresses of all Georgian families residing in Abkhazia has been published, to be, in fact, further used as a kind of guideline facilitating the extermination of the Georgians.

76. Significantly, all publications are permeated by the theme "Genocide for genocide".

B. Political, civil, social and cultural rights of the Abkhaz prior to the armed conflict (14 August 1992)

77. Abkhazia was an Autonomous Republic in Georgia, that is, a state entity: the bodies of the legislative, executive and juridical power were supreme bodies within the borders defined by the Constitutions of Georgia and the Abkhaz Autonomous Republic. The Constitution of the Abkhaz Autonomous Republic was the

only basic law among the Autonomous Republics of the USSR in which the Abkhaz language was declared one of the official languages.

78. Although of the total population of the region Georgians comprised more than 47 per cent, other non-Abkhaz nationalities 35 per cent and Abkhaz only slightly more than 17 per cent, the Abkhaz held the majority of seats in every governing body in Abkhazia: in the Supreme Soviet there were 57 Abkhaz, 53 Georgians and 14 Russians; in city and regional councils the Abkhaz held one third of all positions; on the personal staff of the Council of Ministers and the City Committee of the Communist Party, more than half were Abkhaz; out of 12 ministers, 8 were Abkhaz; out of 8 chairmen of State committees, 5 were Abkhaz; and of 8 city and regional procurators, 5 were headed by Abkhaz.

79. By 1990, the Abkhaz were widely represented in the Government and in party bodies of Georgia. Furthermore, in 1991 the separatists managed through blackmail and intimidation to pass a law granting the Abkhaz 28 parliamentary seats out of 65, Georgians 26 seats and the remaining population only 11.

80. Abkhazia ranked first in the USSR in terms of number of books per capita in the native language. While by 1970 all schools of autonomous republics elsewhere in the northern Caucasus provided exclusively Russian instruction, in Abkhazia there were 25 schools teaching in the Abkhaz language, as well as numerous schools with combinations of Russian/Abkhaz/Georgian instruction. Until recently, the education of more than 4,000 students was conducted in the Abkhaz language and the University of Abkhazia at Sukhumi functioned in it as well.

81. The Abkhaz-language national television, radio, repertory theatre, the Folk Song and Dance Company, the A Cappella Company and numerous other arts establishments were state-subsidized.

82. Besides the Abkhazian Institute of History, Language and Literature of the Georgian Academy of Sciences, about 20 scientific research institutes functioned in the Autonomous Republic, with 5,000 scientists and 500 doctors and doctoral candidates working in them.

83. The fact that Abkhazia remained a constituent part of Georgia was not called into question at the time of the USSR or during its collapse, nor was it an issue for the founders of the Commonwealth of Independent States (CIS) or the international community of States. According to the Alma Ata Declaration of 21 December 1991 (A/47/60, annex II), the sovereignty of Georgia, along with that of other former Soviet Republics, was reaffirmed within its borders, including the Abkhaz Autonomous Republic.

84. The territorial integrity of Georgia was affirmed by the United Nations when it accepted Georgia as a Member on 31 July 1992. However, this did not stop the separatists, who had waited for a long time for a convenient moment to implement their aggressive plans. To that end they deliberately misinterpreted the right of nations to self-determination.

85. As is widely known, contemporary international law prohibits the exercise of the right to self-determination in order to dismember or impair the

territorial or political integrity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction as to race, creed or colour. (Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, General Assembly resolution 2625 (XXV), annex, of 24 October 1970, cited in the Vienna Declaration and Programme of Action (A/CONF.157/23, sect. I, para. 2).)

C. Legal and military preparations to implement the plan "Abkhazia without Georgians"

86. Taking advantage of the opportunity offered when, in connection with the inevitable dissolution of the USSR, the Russian reactionary forces called upon separatists to undermine the struggle of the former Soviet Republics to establish democratic and sovereign States, the Abkhaz separatists began to transform their ideology into so-called "lawful acts": they abolished the laws of the Republic of Georgia in the territory of Abkhazia and one by one adopted laws contrary to the Constitutions of both Georgia and Abkhazia.

87. On 25 August 1990, the Abkhaz Autonomous Supreme Soviet adopted a declaration of governmental sovereignty of the Abkhaz Soviet Socialist Republic, which in essence amounted to secession from Georgia, and unilaterally violated the Constitutions of the Abkhaz Autonomous Republic and the Republic of Georgia. According to the declaration "in the Abkhaz Autonomous Supreme Soviet, the constitutional advantage of the nation that gave its name to the Republic is guaranteed".

88. The conspirators clearly showed their separatist aims in the Decree on the Legal Safeguards of Abkhaz Statehood of 26 August 1990. On 27 August 1991, the separatists made some changes in the Law on the Election of Deputies to the Supreme Soviet by means of blackmail. As a result of that law, the Abkhaz artificially attained a majority in the Supreme Soviet and thus abrogated the rights of Georgians, the majority of the population in the Autonomous Republic.

89. In 1991-1992, in contravention of the provisions of the Constitution of the Abkhaz Autonomous Republic, several laws and decrees were passed that undermined the jurisdiction of Georgia and violated its territorial integrity, in particular those on monetary and credit regulations in the Republic of Georgia, the National Bank of the Republic of Georgia, banks and banking, on laws in the Republic of Georgia and others. Other legislation adopted included laws establishing an internal economic committee and a committee for inter-republic relations, a customs service, a mono-ethnic Abkhaz national guard, the Abkhaz "Aidgilara" battalion of the Confederation of Mountain People of the Caucasus; others transferring jurisdiction over the prosecutor and military and militia units of the Ministry of Internal Affairs; on security bodies; and on State property and privatization committees. Unfortunately, the reaction to such legal "subversion" from the Georgian authorities was neither timely nor adequate. Moreover, in July 1992, ignoring elementary constitutional norms and against the will of Georgian members of Parliament, the separatists abolished

the Abkhaz Constitution of 1978 by a simple majority of votes and "restored" the so-called Constitution of 1925 of the Abkhaz SSR, which had never actually been in effect, in the opinion of specialists. With the aim of changing the demographic situation "by peaceful means" and automatically increasing the Abkhaz population, the separatists adopted discriminatory decrees on registration restrictions of the population in Abkhazia, then on changing surname and nationality, which made it practically impossible for any non-Abkhaz population to live in the region. These decrees did not apply to foreigners, who could, without any identification papers, claim to be Abkhaz. The granting of residence permits and the registration of foreigners were to be carried out in a very simplified and confidential way.

90. In March 1992 alone, in Sukhumi, Ochamchire and other regions, the right to permanent residence was granted to 100 people from a number of foreign countries. Such illegal registration has since continued on an even larger scale. The separatists awarded mercenaries the right of permanent residence and unlimited freedom of looting in Abkhazia.

91. In the Moscow, Saint Petersburg, Krasnodar and Stavropol regions and the Far East, some local authorities encouraged and supported the idea of aggressive separatism. In some republics of the northern Caucasus (Russian Federation), especially in the Chechen Republic, recruiting centres were established to draft "volunteers". Consequently, Abkhazia became a place of refuge for the worst sort of gangsters and killers.

92. A special role in recruiting and financing mercenaries was played by the Confederation of Mountain People, which declared that Georgia and its capital, Tbilisi, were zones of subversion and the main target for terrorist actions. It has been established that two thirds of all the separatist armed units were paid mercenaries.

93. They were the primary targets of Mr. Vladislav Ardzinba's promises to grant the mercenaries "citizenship and homes" (Izvestia, 19 October 1992). In the course of preparation for the war, the Abkhaz separatists purchased weaponry and heavy artillery at bargain prices from the corrupt leadership of the Russian armed forces deployed in Abkhazia, with support being rendered to them by certain groups from the Russian political and military structures. Moreover, soldiers and officers of those troops actually took part in military actions.

D. Beginning of the armed conflict

94. "If one evaluates the degree of hysteria stirred up by the Abkhaz side, it seems to me that the Abkhaz side is to be blamed for the conflict, as with such intolerance shown by the separatist movement it would have been more surprising if these things had not happened ... As far as I am competent to judge, and I found myself practically at the centre of events, these clashes were premeditated and instigated by the Abkhaz side ... The essence of the conflict is not to deprive the local authorities of their prerogatives, as is portrayed by the Gudauta regime, but to carry out a deliberate military action, not spontaneous, but well prepared and planned. The design, objectives and methods of the action were considered long

before the emergence of the 'hot spot'." (Eyewitness account of the station chief of the Main Intelligence Department, Ministry of Defence of the Russian Federation, Mikhail Demianov, reported in "Two Truths Cannot Coexist", Tbilisi, 1996; also recorded on videotape.)

95. These actions were facilitated by instability in western Georgia, where supporters of the ex-President were continuing their joint efforts with the Abkhaz separatists to undermine the democratic Government with terrorism levelled at highway and railway traffic, kidnapping of members of the Georgian Government and holding them hostage in Abkhazia. In mid-1992 in the territory of Abkhazia railway and highway traffic as well as the air transport ceased operation. Pillaging of trains carrying both passengers and goods to Georgia and Armenia increased dramatically and became a normal part of life.

96. At railway stations in Gagra, Bzipi, Gantiadi, Gudauta, Dranda, Gali, Achigvara, Salkhino, Sukhumi, Ochamchire, Ingiri, Zugdidi and other places, separatist paramilitary units launched multiple raids and made off with 1,923 carriages full of goods destined for Georgia and Armenia to a total value of 11 billion roubles (by the rate of rouble at that time). In the first half of 1992 alone, there were 1,142 criminal cases of attacks and bombings.

97. In order to create disorder, anarchy and chaos in the legitimate State structures of the Republic, terrorists and groups of saboteurs systematically threatened the lives and health of the officials and people of Abkhazia, violating their human rights.

98. In the summer of 1992 there were two cases of officials being kidnapped in Georgia and taken to Abkhazia (A. Kavsadze and R. Gventsadze). At the same time, in the western part of Georgia, another Georgian official, Kandid Gogua, was deliberately killed. These acts had grave consequences.

99. It has again become necessary to dispatch troops into Abkhazia from which they had been withdrawn in February 1992, having spent a month in the region in order to restore order. In any event, it cannot be disputed that the Government is entitled to station troops at any point within the territory of the State, including that of the Autonomous Republic.

100. As President Eduard Shevardnadze stated on 10 August 1992 at the meeting of the State Council of Georgia:

> "Within a one- or two-month period, the security and delivery of goods will be under the full responsibility of the Ministry of Defence. In any case, trains must be accompanied. It is necessary to establish two or three camps between Leselidze and Samtredia to ensure relief of the accompanying guard on a permanent basis. One of the camps should be established in Leselidze. The personnel are to be chosen carefully. None of them should enter towns and villages. The local militia will keep order in towns and villages and if necessary will be reinforced from the centre; in some places they do not deem it necessary. If the population requests it, additional militia forces will be dispatched from the centre.

> "I would like to stress that in towns and villages as well as in other gathering places, troops will not be used and will not have contact with the local population. The protection of bridges, railway spans and the infrastructure related to railway traffic will be strengthened."

101. The State Council announced a state of emergency by decree of 10 August 1992, which was to be implemented by the troops of the Ministry of Defence and the Ministry of the Interior, together with the forces of the Railway Department of the Republic. The State Council demanded that the heads of these bodies not permit the deployment of military forces and equipment in towns and villages.

102. It is quite clear that the Georgian authorities did not intend to carry out a military action against the Abkhaz Autonomous Republic. The assertions of the separatist leadership and their supporters regarding "Aggression and occupation" are groundless and rooted in the falsification of facts.

103. It should be noted that the Minister of Defence of Georgia at that time, Mr. Tengiz Kitovani, was instructed to coordinate the plan of deployment and actions of troops with the leadership of the Abkhaz Autonomous Republic, as the latter was informed beforehand of the deployment. As it appeared, Mr. Tengiz Kitovani did not follow those instructions and thus offered grounds to the separatists for provocation and the pursuit of their aggressive aims.

104. On 14 August 1992, Abkhaz separatists opened fire on Georgian armed forces, killing and wounding a number of personnel. The Prosecutor's Office has incontrovertible videotaped evidence of the event in its investigative files.

E. The systematic and widespread nature of the acts

105. "The Georgians can live here in Abkhazia no longer; they can only die." Accomplishing the objectives of this fascist ideology was considered possible by the separatist leaders if they resorted to the systematic and massive annihilation of the Georgian population of Abkhazia, with the rest of them to be expelled from the region by means of bloody terror and forcible deportation.

106. "The issue [starting the conflict], however paradoxical it may seem, is ethnically motivated. This is the issue that is uppermost in the minds of the Gudauta extremists: ethnic cleansing of their own region. We are not speaking only about deportation and forcible removal, but also the extermination of Georgians, who by all objective accounts constitute a majority of the population." (See M. Demianov, op. cit.)

This policy has been conducted in Abkhazia in stages: the Gudauta area - from 14 August to 2 October 1992; the Gagra area - 2 October 1992 to 15 September 1993; the Sukhumi, Ochamchire, Gali and Tkvarcheli areas - from 16 September to the present day. As a result, about 10,000 civilians have been killed and over 200,000 Georgians have been forced to flee from their birthplaces. What attracts the attention is that practically the same type of acts have been perpetrated in different areas under the separatists' control.

107. Before wiping out the areas populated by Georgians, the separatists removed the Abkhaz population from those areas. Gudauta district was designated as the locality where the Abkhaz should gather to join hands with the separatists to conduct a policy of total annihilation of the Georgian population in the territory of Abkhazia. Remarkably, when the government troops surrounding Tkhvarcheli allowed humanitarian relief into the town, the Abkhaz leader used the opportunity to take out by Russian helicopter only the Abkhaz population to the exclusion of all others. Only after protests by the Government of Georgia were places - and very few at that - allocated in the helicopters to Georgians and others.

108. The extermination of the Georgian population was carried out even in localities never affected by military action. This was the case in the Gali region, with a Georgian population of 100,000, where more than 1,000 civilians were killed, tortured or burnt alive and the rest expelled. Dozens of older people, women and children died, unable to stand the rigours of fleeing through the mountainous passes. The refugees and displaced persons are still not being allowed to return to their homes and those who have dared to return at their own risk to the Gali region are being persecuted and often put to death. This is how the slogan "The Georgians can live here in Abkhazia no longer; they can only die" was and still is being translated into reality. The author of the slogan - a former commander of one of the illegal units, Mr. V. Smir - currently holds the post of the Deputy Minister of the Interior of the self-styled "Republic of Abkhazia".

109. As witnessed by Lali Maskharashvili, a nurse at the Gagra hospital, the separatists brought the corpse of a Georgian girl to the hospital. She had been sawn in half. The letter in Russian said: "It is impossible to put this girl back together again".

110. The separatists kept Shota Mgeladze naked and standing in water up to his knees for the whole night. Then one of the boeviks cut his left hand with a knife, filled a glass with blood and demanded that he drink his own blood. When Mgeladze refused, the boevik apologized cynically with the words: "You should not be too hard on me. I'll drink not only your blood, but every Georgian's blood". Then he drank the blood and threatened that if Georgians did not leave the territory of Abkhazia, they would all be exterminated.

111. The systematic and mass destruction of the Georgian population was the main objective of the armed conflict and by no means a side effect of it.

F. Extermination of the Georgian leadership of the Abkhaz Autonomous Republic and leading officials in the sphere of education, health care and culture

112. Shortly after the fall of Sukhumi, on 27 September 1993, Jiuli Shartava, President of the Council of Ministers of the Abkhaz Autonomous Republic, was tortured mercilessly and shot dead. The same fate was shared by most members of his Government, including the Mayor of the capital, G. Gabeskiria, the chief of the local Abkhazian police, Rapava, the deputy of the head of Gagra municipality, M. Gincharadze, and other key officials and staff.

113. The separatists massacred more than 100 artists, among them many women, who were tortured to death, including Nato Milorava (37 years old), Artistic Director of the Gumista Cultural Centre, actors V. Ckheidze, T. Zhvania and G. Gelovani, and Y. Gelovani, Director of Sukhumi Central Park.

114. The separatists killed more than 80 physicians, mostly women, including V. Kholbaya, T. Tsotoria, N. Shonia, A. Shelia, M. Beselia and I. Tkhebuchava. The following physicians were killed in the exercise of their professional duties: Z. Danelia, G. Sichinava, R. Ispekcthian, G. Barkalaia, Sh. Gvazava and others. In Gulripshi, the chief physician of the hospital, Sh. Jgamadze, and his colleague P. Shichinava were shot dead in front of members of their families.

115. The separatists and their accomplices in the northern Caucasus slaughtered more than 200 teachers, among them 60 women, including V. Sigua, I. Gogokhia-Tchitanava, T. Dzandzava, E. Pilpani, L. Akubardia, T. Pachulia, G. Grdzelidze and others.

G. Mass killings and murder of Georgian civilians, accompanied by cruel treatment

1. Mass killings and murder

116. The mass killings of the civilian population of Georgia were accompanied by the torture of old people, women and children. The Georgian population was massacred and those who survived were expelled en masse, first from Sukhumi and Gudauta, where the Abkhaz separatists had gathered their illegal armed units. In the very first days of the conflict, 5,000 Georgians were expelled from Eshera, Likhni, Aradu and Akhalsopeli. The rest were subjected to different atrocities. In Akhalsopeli, 17 people were shot dead. A 70-year-old man named I. Grdzelidze was stabbed repeatedly and had his heart cut out from his chest in public; A. Maisuradze was cut to pieces with an axe; 65-year-old N. Kvabzianidze was hitched up to a tractor and tortured to death.

117. After the fall of Gagra the separatist bands carried out mass killings, plundering and torture of the inhabitants of the city.

118. According to the statements of eyewitnesses, on 5 October in Daba Leselidze, 50 Georgian civilians were tortured and hung on sign posts. The separatists tortured with particular severity the people of Gagra, Salkhino, Gantiadi, Lidzava, Alakhadze and Bzipi. According to the statement by N. Chaladze, after the occupation of Gagra, Abkhaz television declared that the Abkhaz and their mercenaries would receive as compensation the houses of those Georgians they had murdered.

119. T. Jincharadze stated that on 7 October 1992, together with other Georgians, he was forced to gather 250 corpses of Georgians in the streets of Gagra, they were loaded onto four "Kamaz" vehicles and then thrown into a big pit. As witnessed by K. Sichinava, after the fall of the town, its Georgian inhabitants were murdered on a massive scale. In the village of Dzveli Kindgi

the mercenaries shot 72 Georgians, whereas in the village of Ganakhleba, in the Gulripshi region, Abkhaz boeviks executed 48 Georgians.

120. As stated by a resident of Sukhumi, L. Zoidze, a group of Abkhaz separatists exterminated the whole Pkhakadze family, cut their heads off, stuck them on stakes and burnt them to ashes.

121. According to L. Makharashvili:

> "The separatists brought the corpse of a Georgian girl to the hospital. She had been sawn in half. A note in Russian said: 'It is impossible to put this girl back together again; thus, it is impossible to put Georgia and Abkhazia back together'."

122. As witnessed by G. Arzumanian, in the village of Akhaldaba, the Abkhaz separatists cut off the heads of civilians. About 60 Georgian women were necklaced with tyres and burnt alive. They shot every child and young man mercilessly. Those who survived were driven to the stadium and shot dead one by one. As a result, in the village of Akhaldaba about 400 people were killed altogether in a single day.

123. On 10 March 1995, boeviks of Abkhaz and other nationalities, operating under the orders of the Sukhumi authorities, penetrated into the villages of Gumurishi, Zemo and Kvemo Bargebi, Otobaia and others. They plundered Georgian families and shot dead all of those who put up any resistance.

124. According to a statement by G. Badzagua, on 12 March 1995, armed groups stormed into the village of Nabakevi, detained his brother, Jumber, and their neighbours, M. Kvaratskhelia, D. Narmania, G. Kharchilava and R. Cherkezia. They took these villagers to a plantation, where Kharchilava and Cherkezia were murdered. The rest of them were taken to Kvemo Bargebi and there they too were slaughtered.

125. The separatists killed more than 400 people in the Sukhumi Park of Culture and Rest. The separatists bombarded the airport of Sukhumi, where thousands of Georgians, Russians and citizens of other nationalities were waiting for aircraft every day. The separatists shot down several civilian aircraft. A number of people fell victim to that brutal assault, among them more than 50 women and children.

126. After the invasion of Sukhumi, separatists martyred hundreds of Georgians - elderly people, invalids, women and children.

2. Killings carried out with particular cruelty (torture, burning alive)

127. As a rule, the mass murders of Georgian civilians were preceded by torture and cynicism.

128. According to S. Dgebuadze, in Kindgi and Tamish, the Abkhaz separatists killed scores of Georgians, cut the corpses into pieces and hung them on the lamp posts labelled "Georgian meat for sale".

129. According to O. Govejishvili, on the second day after the invasion of Gagra, the mass exterminations of the people began. The separatists did not even spare pregnant women. The boeviks cut the women's bellies open and then trampled on the embryos. The separatists tortured with particular severity the inhabitants of Gagra, Salkhino, Gantiadi, Bichvinta, Lidzava, Alakhadze and Bzipi. They murdered without distinction old people, women and helpless children. Among those martyred were I. Kometiani, D. Kuchukhidze, N. Charkviani, S. Bobokhidze and S. Gvazava. The separatists ruthlessly slaughtered O. Bzhalava - before his children and wife; B. Kutsia - before his wife's eyes; V. Benidze - before his daughter's eyes; and G. Glonti. They caught a teacher, V. Samkharadze, aged 65, cut his head off and threw his body into the street. They did not permit the members of his family to bury the deceased. The corpse was torn to pieces by dogs and pigs. The separatists also cut off G. Pipia's ears and nose and then killed him.

130. T. Barkalaia stated that the Abkhaz had killed his cousin, T. Kvelidze, a resident of Lidzava, before his eyes. First they cut off his nose, then his ears and one leg, and then shot him. In the same way they killed 70-year-old A. Simonishvili. The separatists kept Shota Mgeladze naked and standing in water up to his knees for the whole night. Then one of the boeviks cut his left hand with a knife, filled a glass with blood and demanded that he drink his own blood. When Mgeladze refused, the boevik apologized cynically that he would drink not only his blood, but every Georgian's blood. Then he drank the blood and threatened that if Georgians did not leave the territory of Abkhazia, they would all be exterminated.

131. The statement of Eter Berulava reads as follows:

> "A. Davitaia, who lived at 22 Komkavshiri Street, was tortured and killed but prior to that, the separatists burnt his house down. O. Beria and five members of his family were killed with unusual barbarity; M. Gakharia, A. Kvaratskhelia, V. Kalandia and many others were martyred as well."

132. According to the statement of Roza Gabedava, on 27 September 1993, after the invasion of Sukhumi, Abkhaz separatists and mercenaries from other nations attacked them. Her husband, Murman Todua, and her son, Zurab, together with their neighbours and Georgian policemen, were hiding in one of the nearby buildings. The boeviks found them and shot them dead. Roza Gabedava had to dig the grave herself and bury her family there, along with other victims.

133. Next to school No. 12, in front of the beer stand, drunken Abkhaz and other boeviks played a game with the decapitated heads of slaughtered Georgians, kicking the heads back and forth and shouting with laughter.

134. Two other residents of Sukhumi, R. Shubladze and G. Kvashilava, were executed with machine-guns. Later, the separatists cut flesh from their legs and arms and threw it on the floor. When Shubladze's horrified wife asked them

why they had committed such an atrocity, they replied that the same fate would be suffered by all Georgians who dared to stay in Abkhazia.

135. The Abkhaz separatists and their boeviks have repeatedly launched assaults against the villages of the Gali region. In the village of Okumi, 65 persons were savagely killed, 20 of them women. Among those murdered were Venera Antia, age 90, Neli Gargaia, age 55, Vara Gunia, age 81, Alma Latsuzbaia, age 67 and Natela Shelia, age 56.

136. In the city of Gali 128 people were tortured to death, 20 of them women.

137. In the village of Achigvara 70 people were shot, 17 of them women. In Gudava 55 people were martyred, 14 of them women.

138. The same tragedy took place in Mziuri, Kvemo and Zemo Bargebi, Repi-Shesheleti, Otobaia, Nabakevi and other villages. The Abkhaz separatists burnt alive helpless women, Z. Tsurtsumia, V. Chargazia, C. Chaava, S. Djologua, K. Gangia, T. Kvachabia, R. Zamtaria, V. Tarbaia and others.

H. Mass rape, including children

139. The family of the Director of the Gagra Health Resort, A. Baramia, was attacked by Abkhaz separatists and their mercenaries, who raped his wife and his daughter, Tsitsia. After that they tortured them and then shot Baramia himself and all of his guests.

140. According to the statement of N. Bagashvili (Ochamchire region), Abkhaz separatists invaded their village and captured the majority of the inhabitants there, primarily women and children. They publicly raped 25 girls aged 12 to 16. This mass sexual violence against helpless children continued for a full week. After raping the girls, the separatists cut off their nipples. According to the statement of V. Gurchiani, Abkhaz separatists systematically raped women and children in the village of Varcha (Gulripshi region). In the village of Akhaldaba (Ochamchire region), separatists raped R. Chakvetadze's wife and two daughters and R. Sanaia's 13-year-old girl, after which they killed all the members of her family. According to I. Pruidze's statement, the boeviks raped L. Goletiani, M. Kurashvili and Zh. Kukhalashvili's 11-year-old daughter and burnt them.

141. According to G. Arzumanian's statement, the Abkhaz boeviks, after invading the village of Akhaldaba, raped women and nearly every child above the age of six. In the Ochamchire region separatists committed mass sexual violence on the Poletaev sisters and then shot them.

142. According to the statement of eyewitness B. Gulua, Abkhaz boeviks raped Gogua in the presence of her husband in the village of Kochara and then killed them.

I. Forcible deportation of the Georgian population

143. After signing an agreement on 27 July 1993, the Abkhaz separatists and their mercenaries increased the physical and psychological pressure on the Georgian civilian population. In Bzipi they took passports away from Georgian citizens and struck their names off the list of inhabitants without permission. The inhabitants, threatened by mortal danger, were forced to sign papers confirming that they were leaving their houses voluntarily. On 9 August 1993, the separatists took Georgians to a nearby airport in the Russian Federation under threat of extermination, where they were forced to sign documents compelling them to leave their homes. Some 250 families, that is, 3,000 persons, were deported in this way from Bzipi alone. Two residents of Bzipi, K. Kikviladze and his 12-year-old daughter, were shot simply for refusing to leave their home. The separatists also shot others for the same reason.

144. Numerous cases of forcible deportation of civilians were observed in the villages of Gantiadi, Leselidze and other places. According to the statement of D. Omanidze, her family and some other Georgian families in Pitsunda were forced to sign documents compelling them to leave their homes and were deported from Abkhazia. Their property was expropriated.

145. Similar cases are confirmed by the evidence of civilian inhabitants of the Gulripshi region, N. Nikoladze, A. Kakachia, T. Gulua and others.

146. It has been established that 17,000 residents of Gagra of Georgian nationality have left their native lands and become exiles because of the killings, threats and forcible deportation.

J. Attacks directed against hospitals, medical personnel and localities under the protection of the Red Cross and Red Crescent symbols

147. The Abkhaz separatists and their mercenaries have killed more than 80 physicians, mostly women: V. Kholbaia, S. Tsitsoria, Ch. Shelia, O. Tkebuchava, M. Beselia and others. The following physicians were killed in the exercise of their professional duties: Z. Danelia, G. Sichinava, G. Barkalaia, Sh. Gvazava and others. In Gulripshi, the chief physician of the hospital, Sh. Jgamadze, and his colleague, P. Shichinava, the physician of the republican hospital, were shot dead in front of members of their families. Investigation has documented cases of bombing and bombardment of hospitals by the separatists located in Sukhumi that caused material damage and human victims. Localities under the protection of the Red Cross and Red Crescent symbols were nevertheless subject to bombardment.

K. Destruction of cultural monuments and religious objects central to the identity of the Georgian population

148. According to the evidence of witness Kharaishvili, as the separatists tortured and exterminated the Georgians in Gagra, they also expropriated their property. The separatists shouted that in the Gagra-Leselidze area every

Georgian would be killed and Georgian books, monuments and houses would be burnt. In the same way, the Abkhaz separatists and their mercenaries burnt down monuments, books and schools.

149. In Sukhumi, the separatists burnt down the monuments to Sh. Rustaveli and A. Tsereteli, the "Apsni", "Komkavshireli", "Rustaveli" and "Sukhumi" cinemas; music schools Nos. 3 and 4; the State Museum of Abkhazia was partially destroyed and the Papaskiri Republican Library was entirely burnt down; and the graves of Georgian poets and writers were defiled. In the Sukhumi region, separatists destroyed the palace of culture and regional library. In the Gulripshi region, they destroyed the palace of culture and the houses of Georgian writers, music schools and the temple, which had been repaired by the Georgians; in the Ochamchire region, the cinema, regional library, palace of culture, the church of Mokvi and in part that of Ilori; in the Gali region, the palace of culture, the cinema, ethnographic museum, the museum of the scholar I. Vekua in the village of Shesheleti and the Museum of Regional Studies; in the Gagra region, the monuments to K. Gamsakhurdia and Hero of the Soviet Union G. Kilasonia, the friendship museum in Bichvinta; in the village of Likhni (Gudauta region), a church built by the Georgians in the twelfth century, with inscriptions in the Georgian language.

150. The separatists killed more than 100 workers in the field of art including women. They also killed the Artistic Director of the Gumista Theatre, V. Chkheidze, T. Zhvania, F. Gelovani, the Director of the Sukhumi Park of Culture and Rest, I. Davitaia, and others.

L. Deliberate inflicting on the Georgian population of conditions of life calculated to bring about its physical destruction in whole or in part

151. The Abkhaz separatists deliberately create conditions for the total extermination of the remaining Georgian civilian population in Abkhazia and threaten to prevent their return to their homes. It is noteworthy that such criminal acts are being committed by the separatists even with the presence of Russian peacekeeping forces in the conflict zone. On 17 October 1994, in the Gali region, Abkhaz separatists and their mercenaries shot dead civilians Terenti and Emzar Lemonjava and their bodies were burned. In March 1995, G. Kharchilava, R. Cherkezia, V. Injia, G. Lezhava and I. Tsikolia were killed. Systematic robberies and attacks upon Georgian civilians are being committed.

152. It has been established that at the beginning of the conflict, Abkhaz separatists totally blockaded the villages of the Gudauta region, populated mainly by Georgians, and deprived them of any means of earning their living by isolating them from the world.

M. Total destruction of towns and villages by means of bombing and burning to ashes houses and buildings with their inhabitants

153. The separatists destroyed and burnt to the ground thousands of Georgian houses, thus depriving their owners of the opportunity or desire to return to

their homeland. The policy of genocide assumed unexpected dimensions, particularly in the Gali region, where 97 per cent of the more than 80,000 residents of the region were Georgians. On 29 September 1993, the separatists and their occupants invaded the Gali region and started the mass extermination of its inhabitants.

154. Since February 1994, the Abkhaz separatists have repeatedly launched assaults against the villages of the Gali region, plundering, killing and terrorizing the population. They have destroyed and razed to the ground hundreds of villages. They have burnt and ruined 6,800 buildings, 40 schools, 35 houses and shops, stolen more than 25,000 cattle, plundered the factories and seized expensive foreign equipment, causing irreparable damage to the economy of the region. In the village of Okumi, of 710 buildings belonging to Georgian civilians, 610 were ruined, 65 persons were savagely killed, 20 of them elderly women. In the village of Achigvara, 411 houses were burnt and destroyed. Seventy people were shot, 17 of them women. In Gudava, 429 houses were burnt down and 55 people were martyred, 14 of them women.

155. Helpless elderly women were burnt alive in their houses: Zh. Tsurtsumia, V. Chargazia, Ch. Chaava, Sh. Jelogua, G. Gangia, L. Kvachakhia, R. Zantaria, B. Malishava, V. Tarbaia and others.

156. In Sukhumi A. Davitaia was burnt in his house. O. Beria suffered the same fate with five members of his family.

157. For several months the separatists bombarded Sukhumi and Ochamchire, with tens of thousands of bombs. In the city of Sukhumi, 400 citizens perished in the bombing. The separatists usually bombarded at night when the town was asleep.

N. Denial to the refugees and forcibly displaced persons of the right to return to their homes and terror towards those who have dared to return

158. By carrying out ethnic cleansing/genocide against the Georgian population, the separatists have decimated that population. They did and continue to do everything in order to prevent the return of the exiles to their native lands. According to the Quadripartite Agreement signed on 4 April 1994 by the Georgian, Russian, UNHCR and Abkhaz separatist parties and other agreements, the exiles were supposed to be allowed to return as a preliminary condition.

159. Consequently, the number 311 seems to be cynical, as it is the exact number of persons officially allowed to return. At that rate, the return of the refugees to the Gali region alone would have been delayed for more than 200 years and for all the refugees from Abkhazia for 800 years.

160. In its resolutions on the conflict in Abkhazia, the United Nations Security Council demands the return of refugees and displaced persons without delay or preconditions (see resolutions 1065 (1996) and 1096 (1997)). This practice was also condemned in paragraph 20 of the Lisbon Summit Declaration. The Council of the Heads of CIS States has repeatedly condemned the denial of repatriation of

the exiles back to the Gali region. However, the separatists, ignoring the demands of the international community, continue to implement their policy of deliberate extermination and terror against those who have dared to return to Abkhazia at their own risk.

161. "The Abkhaz authorities continue to apply a policy of violent ethnic cleansing with the aim of preventing any significant repatriation in the Gali region or any other part of Abkhazia. The tactics employed vary from simple verbal intimidation and arrests for short periods to murder and some most horrific atrocities, from all accounts, have been committed on orders from Sukhumi." (Report of an OSCE mission to survey the human rights situation in the Gali region of Georgia, from 19 to 21 April 1995, referred to in a statement by the State Commission dated 26 March 1996 (see E/CN.4/1996/146, annex, para. 16).)

162. It is noteworthy that even after the CIS peacekeeping forces, recruited by the Russian armed forces, had been brought into the conflict zone, more than 1,300 civilians, mostly old people, women and children, were killed in the Gali region and more than 6,000 houses burnt down.

163. However, nothing could prevent the desperate people from returning to their native lands at their own risk. More than 30,000 residents have already returned; some of them have been the victims of terror and often roam from place to place in order to avoid the punitive operations conducted in order to revenge the terrorist acts of the partisans. The fascist thugs acted in the same way.

164. The fact remains that the separatists use all means available to prevent the demographic composition of Abkhazia from returning to the status quo ante, despite the Security Council's affirmation of the unacceptability of forcible demographic changes (resolutions 1065 (1996) and 1096 (1997)).

V. CONCLUSIONS AND RECOMMENDATIONS

165. The facts established during the investigation of the events that took place before the beginning of the armed conflict (14 August 1992) launched against the democratic Government of Georgia by the Abkhaz separatists, as well as during the military actions (August 1992-September 1993) and then after the ceasefire and the assumption of control by the illegal military units, including thousands of mercenaries, over the whole territory of Abkhazia, are as follows:

(a) The separatists have been continuing their policy of "ethnic cleansing" in the form of genocide against the Georgians, who had previously constituted 45.76 per cent, that is, 244,872 persons, of the population of Abkhazia;

(b) The preparations for these crimes had been continuing for years, as the official and non-official mass media of Abkhazia, along with political figures and scholars, imbued young people with hatred towards the "Georgian occupants" and blessed the day when there would be no Georgian in Abkhazia;

(c) Having acknowledged that for the minority group (the Abkhaz amounted to 94,767 persons, that is, 17.73 per cent) of the multi-ethnic population of Abkhazia, there would be no "democratic" way of securing secession of the region from the rest of Georgia, the separatists embarked upon exterminating the Georgian population from the very beginning of the conflict.

166. The premeditated genocide of the Georgian civilian population was set in motion with the active assistance of agents provocateurs and accomplices, including thousands of foreign mercenaries, who twice outnumbered the Abkhaz units themselves. It took the form of mass extermination of people, torture, burning, hanging, rape, systematic bombing of populated areas and the destruction of hospitals, towns and villages. Ancient monuments of Georgian culture showing that Abkhazia has always been a historical part of Georgia have been destroyed. This is an incomplete list of the types of persecution on a widespread scale committed against the Georgian population of Abkhazia.

167. In this way the fascist slogan and deliberate policy of "Abkhazia without Georgians" has become a reality.

168. This policy is still continuing, as more than 200,000 Georgian refugees and displaced persons are not being allowed back to their homes. Those who dare to return voluntarily are being savagely persecuted.

169. The international community of States (the United Nations, OSCE, CIS and the European Parliament), in condemning the policy of "ethnic cleansing" in the form of mass extermination and forcible expulsion of the predominantly Georgian population of Abkhazia, has affirmed the unacceptability of refusing to allow them to return to Abkhazia and of forcibly changing the demographic composition of Abkhazia, Georgia.

170. The Georgian State Prosecutor's Office has concluded its inquiry into the crimes committed in Abkhazia, categorizing them as grave breaches of international humanitarian law and crimes perpetrated against humanity, inter alia, genocide. These crimes fall under the jurisdiction of an international court.

171. The territory of Abkhazia, where these crimes were committed, however, is still under the control of separatists and therefore the Georgian State Prosecutor's Office is not in a position to undertake all the necessary measures prescribed by law with a view to detaining and bringing to justice those guilty of committing these crimes.

172. It is incumbent upon the international community to render assistance to the competent authorities of Georgia to bring to justice those guilty of crimes against humanity in the most heinous form, "ethnic cleansing"/genocide.

173. It is necessary for the competent organs of the United Nations to dispatch Georgia a mission of experts to assess the validity of the accusations.

174. Once the facts of "ethnic cleansing"/genocide against the Georgian population of Abkhazia are internationally confirmed, the United Nations should commence action aimed at bringing to trial those guilty of the crimes specified above, in accordance with international principles of due process.

APPENDIX I

Dynamics of the demographic situation
in Abkhazia, Georgia, 1992-1997

1. According to the data, the population of the Autonomous Republic of Abkhazia on 1 January 1992 was 535,061, while on 1 January 1997 it amounted to 145,986. Thus, the population of Abkhazia decreased by 388,075, that is, 72.7 per cent or 3.67 times.

2. It is noteworthy that the reduction, while in all ethnic groups, affected predominantly the Georgian population of Abkhazia. On 1 January 1992, the number of members of ethnic groups was 244,872, or 45.76 per cent of the whole population; on the same date in 1997 it was 43,442, or 29.76 per cent of the current population. This percentage is very impressive at first sight, but taking into consideration the reduction in the total population of Abkhazia, the real number of ethnic Georgians was reduced to 201,430, that is, 82.2 per cent or 5.64 times.

3. It is important to note the situation in the Gali region, where the overwhelming majority of the population are ethnic Georgians. The population figures are not stable and show a trend towards further reduction, owing to the punitive operations carried out by the separatist regime on a permanent basis.

4. As at 1 January 1992, the 94,767 Abkhazians constituted 17.73 per cent of the total population. For the corresponding date in 1997, their number was reduced to 53,993, or 36.98 per cent of the current total population.

5. Notwithstanding the fact that the percentage of Abkhazians as compared with the previous period doubled, their actual number was reduced by 40,774. While the reduction in the Georgian population was caused by ethnic cleansing and forcible deportation, the reduction in the Abkhaz population is the result of migration processes resulting from the current economic and political chaos in Abkhazia, unbearable living conditions and the crime situation. It must be taken into consideration that the overwhelming majority of Abkhazians left the territory at the beginning of the conflict as they did not want to participate in the war and bloodshed. Currently they are not returning to their native lands because of fear of persecution by the separatists.

6. The same concerns the Russians, Armenians and other ethnic groups.

7. At present, the mass migration of the population on the basis of forcible drafting of young men into the so-called Abkhaz army will obviously further decrease the population of Abkhazia as a whole.

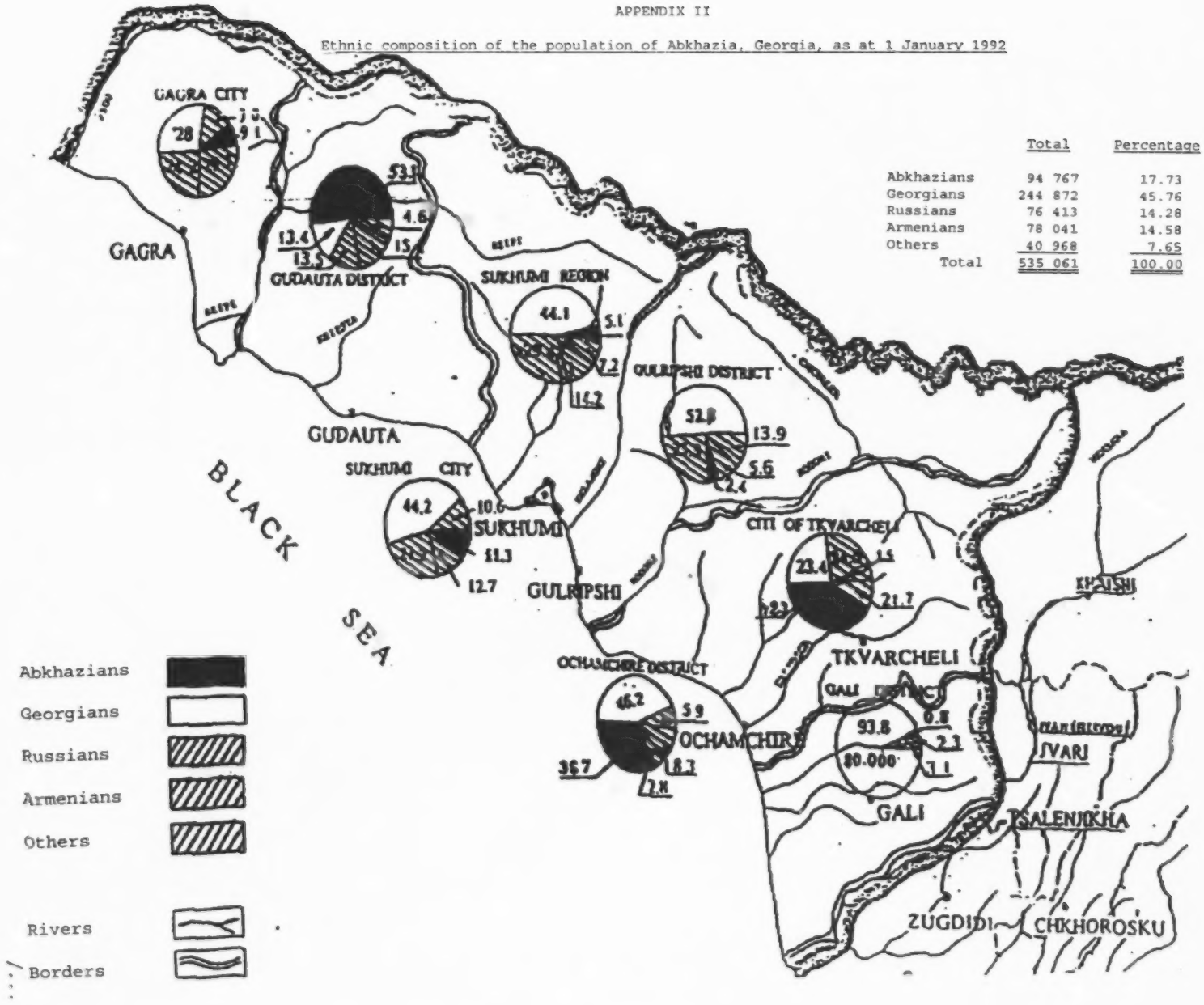
8. The maps show the clear changes in the demographic situation in all regions of Abkhazia (see appendices II and III).

9. The Gulripshi region is worthy of note, since the percentage of ethnic Georgians has increased to the detriment of the deserted and mountainous Kodori Valley.

10. As for the Tkvarcheli region, the population was reduced from 5,086 to 177, Georgians constituting only 15.04 per cent.

11. From all the above, the relevant changes in the demographic situation in Abkhazia may be clearly observed, as a result of the systematic genocide and ethnic cleansing carried out by the Ardzinba regime in the occupied territories - and still continuing - directed primarily against the Georgian population.

Ethnic composition of the population of Abkhazia, Georgia, as at 1 January 1992



	Total	Percentage
Abkhazians	94 767	17.73
Georgians	244 872	45.76
Russians	76 413	14.28
Armenians	78 041	14.58
Others	40 968	7.65
Total	535 061	100.00

APPENDIX III

Ethnic composition of the population of Abkhazia, Georgia, as at 1 January 1997

	Total	Percentage
Abkhazians	53 993	36.98
Georgians	43 442	29.76
Russians	18 110	12.40
Armenians	17 747	12.16
Others	12 694	8.70
Total	145 986	100.00